

**REMARKS****Overview**

Claims 1-15 are pending in the present application. Claim 6 has been amended to correct a typographical error. The present response is an earnest effort to traverse all rejections and secure the Examiner's agreement that all claims are in proper form for immediate allowance. Therefore, reconsideration and passage to issuance is respectfully requested.

**Examiner's Interview**

The Applicant appreciates the time the Examiner spent with the Applicant in the Examiner's Interview. After studying the most recent Office Action made final, Applicant believes the Examiner misunderstands Applicant's use of the bar code to prevent identity theft as well as deceptive check writing. These two items are defined in the claims preamble as "fraud". The Examiner cited art that addresses deceptive check writing but none of them addresses identity theft.

Identity theft is a serious problem that must be appreciated and recognized by the Examiner. Identity theft involves the stealing of personal information including name, address, phone number, social security number, drivers license number, etc. This stolen identification information may at best be used to create an identity to steal funds from a person but in a worst case scenario may be used to stalk a person to their home address. The Applicant notes that if the Examiner fails to appreciate this important characteristic of the Applicant's invention having a bar code located in the left hand corner of a check, the Examiner should consider the situation in which a young woman goes to college, uses her name and address upon her checks, and then

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runs the risk of having somebody looking over her shoulder, taking down her information, and then using that information to stalk her or steal her identity.

The Examiner argues that it would be obvious to substitute the personal information on the outside of a check with a bar code. Unfortunately, the merchant is not concerned with the safety and well being of a person's identity but rather they have an entirely different priority - the merchant has a financial responsibility to ensure that the check is written by the correct person. Therefore, the merchant wants to have every piece of information available so that they may prevent the costly and time consuming issue of tracking down deceptively written check writers as well as secure funds from those who have written a check with insufficient funds.

In summary, a merchant is looking for every available piece of personal information from a person whereas that person is seeking to hide as much personal information as possible to protect from identity theft.

Applicant believes that the Examiner's appreciation of the prevention of identity theft as part of Applicant's invention will enable the Examiner to discern that the claims as currently written are in proper form for immediate allowance.

#### **Issues Under 35 U.S.C. § 103**

Claims 1, 6 and 11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilkinson in view of Martin. Neither Wilkinson nor Martin teaches a "pre-printed bar code" that prevents "fraud", specifically both deceptive check writing and identity theft.

Although Wilkinson addresses the problems associated with a bank or merchant trying to identify a correct check writer, it does not do anything to protect identity theft nor is there any suggestion in Wilkinson that the personal information including the name and address may be substituted by

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a bar code. Similarly, there is no suggestion in Martin to remove the personal information on the check, namely, the name and address and substitute a bar code. Martin only addresses the concerns of ensuring that banks and merchants do not receive deceptively written checks as opposed to issues surrounding identity theft. Therefore, neither reference addresses the problem of "fraud" that includes identity theft as expressed in claims 1 and 6.

It is respectfully submitted that the Examiner is not properly taking into account the nature of the problem addressed by Applicant's invention. In particular, neither reference identifies or otherwise recognizes the problem associated with identity theft. The problem being solved by the invention is always relevant. In re Wright, 838 F.2d 1216, 6 U.S.P.Q.2d 1959, 1961 (Fed. Cir. 1988). Here, the problem being addressed by Applicant's invention is explicit in claims 1 and 6. Moreover, the problem being addressed by the Applicant's claimed invention is significantly different from Wilkinson and Martin as they are both directed towards preventing deceptive check writing as opposed to preventing the theft of a person's identity. The Applicant also reminds the Examiner that Martin conceals completely different information to that listed in the upper left hand corner of the check including "the payee of the check (i.e., the merchant), the amount of the check, date the check was written, the drawer's account number, the drawee's routing number, and the identifier number of the check" (page 5, paragraph 62); therefore, no information which would protect a customer's identity is included in the bar code. One of ordinary skill in the art would not look to Martin to replace the personal information of Wilkinson with a bar code. Therefore, the Applicant respectfully traverses the Examiner's rejections such that claims 1 and 6 are in immediate condition for allowance. As claims 2-5 and 7-11 depend from these independent claims, it is respectfully submitted that these claims are allowable as well.

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Claim 12 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Pearson in view of Iguchi. Pearson does not teach using a bank check without any personal identification information, such as a home address and telephone number. Pearson merely uses a standard bank check that is typically given to a person when they first open an account to emphasize that an account number is covered by non-magnetic ink. Once again, Pearson is only concerned about the practice of deceptive check writing as opposed to preventing a person's identity from being stolen. The Applicant notes that one of ordinary skill in the art would not look to Iguchi to place a bar code upon Pearson to protect a check writer from identity theft as Iguchi does not replace the customer's "NAME" with a bar code (see Figure 8 which clearly shows the bar code next to the customer's "NAME"). The Examiner appears to be using the invention as a guide through the maze of patent art using impermissible hindsight. Iguchi is simply non-analogous art as it pertains to photographic image print guides and does not replace the customer's "NAME" with a bar code (see Figure 8). Uniroyal, Inc. v. Redken-Wiley Corp., 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Accordingly, the Applicant respectfully requests that the rejection to claim 12 be withdrawn. As claims 13-15 depend from claim 12, the Applicant respectfully requests these rejections be withdrawn as well.

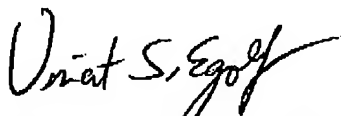
#### Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

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Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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